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8 Attorneys for Plaintiff  
9 CHRISTINA JOHNSTON

10 UNITED STATES DISTRICT COURT  
11 SOUTHERN DISTRICT OF CALIFORNIA

12 CHRISTINA JOHNSTON

13 Plaintiff,

14 v.

15 UNITED STATES OF AMERICA; and  
16 DOES 1-10,

17 Defendants.

18 CASE NO. '08 CV U568 BTM NLS  
19 COMPLAINT FOR NEGLIGENCE

20 Plaintiff, CHRISTINA JOHNSTON, alleges:

21 1. This action arises under the Federal Tort Claims Act of 1948, 62 Stat. 982, 28 United  
22 States Code sections 1346 (b), 2671 et seq.

23 2. Plaintiff resides, and at all times mentioned in this complaint, did reside within the  
24 boundaries of this district. Defendant, by and through the Department of Homeland Security,  
25 Customs Border Protection, a Federal agency of Defendant, did and still does conduct border security  
26 operations in San Diego County, California.

27 3. All of the defendants negligent acts and omissions herein complained of occurred on  
28 September 24, 2004 within San Diego County, California.

1. Plaintiff presented a timely and valid Claim for Damage, injury or death pursuant to  
28 CFR 14.2, which claim was substantially rejected by letter dated October 2, 2007.

FILED

08 MAR 26 AM 11:58

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: CP DEPUTY

1           5.       On September 24, 2004, Plaintiff was operating her motor vehicle on Skyline Truck  
2 Trail in San Diego County. Unbeknownst to her, a Border Patrol Agent employed by the Department  
3 of Homeland Security, Customs Border Protection, was approaching her in a government vehicle.  
4 As she proceeded in a Northwest direction she rounded a turn and encountered said employee, Axel  
5 Ignacio Hernandez, negligently executing a u-turn that put his vehicle perpendicular to plaintiff's  
6 path of travel. Plaintiff braked but could not avoid hitting the vehicle operated by Mr. Hernandez.

7           6.       The collision that ensued, proximately caused injury to plaintiff's person and  
8 property, including but not limited to physical and mental injury that required and continues to  
9 require medical attention and intervention, interference with her professional occupation producing  
10 a loss of benefits, property damage to her vehicle, and ancillary expenses related to her property  
11 damage claim. Plaintiff's damages proximately resulting from the collision are in excess of  
12 \$125,000.00.

13       WHEREFORE, Plaintiff prays for judgment as follows:

- 14           1.       For General damages in the amount according to proof;  
15           2.       For Special damages in an amount according to proof;  
16           3.       For Such other further relief as the Court may deem proper.

17  
18       Dated: 03/26/08

BOUDREAU WILLIAMS LLP

19  
20  
21       By: Steven M. Boudreau  
22           Steven M. Boudreau, Esq.  
23           Attorneys for Plaintiff,  
24           CHRISTINA JOHNSTON  
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26  
27  
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**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

**# 149113 - SH  
\* \* C O P Y \* \*  
March 26, 2008  
12:00:31**

**Civ Fil Non-Pris**

USAO #: 08CV0568  
Judge.: BARRY T MOSKOWITZ  
Amount.: \$350.00 CK  
Check#: BC16308

**Total-> \$350.00**

FROM: JOHNSTON V. USA

JS 44  
(Rev. 07/89)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

CHRISTINA JOHNSTON

**DEFENDANTS**

UNITED STATES OF AMERICA

FILED  
08 MAR 26 AM 11:58  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF SAN DIEGO  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

BOUDREAU WILLIAMS LLP  
666 STATE STREET  
SAN DIEGO, CA 92101

ATTORNEYS (IF KNOWN)

'08 CV U568 BTM NLS

**II. BASIS OF JURISDICTION** (PLACE AN 'X' IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☒ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

(For Diversity Cases Only)

- |   | PT                                    | DEF                        |   | PT                         | DEF                        |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

THIS ACTION ARISES UNDER THE FEDERAL TORT CLAIMS ACT OF 1948, 62 STAT. 982, 28 U.S.C. Sect. 1346 (b), sect. 2671-2680; and SOUNDS IN NEGLIGENCE BY A GOVERNMENT EMPLOYEE.

**V. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 881 HIA (13958) <input type="checkbox"/> 882 Black Lung (923) <input type="checkbox"/> 883 DIWC/DIWW (405(g)) <input type="checkbox"/> 884 SSID Title XVI <input type="checkbox"/> 885 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motion to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions		

**VI. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removal from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  
 DEMAND \$ 0.00

 CHECK YES only if demanded in complaint:  
 JURY DEMAND: ☒ YES ☐ NO
**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

Docket Number

DATE

SIGNATURE OF ATTORNEY OF RECORD

MARCH 24, 2008

Steven M. Boudreau

STEVEN M. BOUDREAU, ESQ.

in 149113 \$350 sd 3/26/08